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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,350	06/26/2001	Carrel W. Ewing	MLF-600-13	3551
24197	7590	08/09/2005	EXAMINER	
KLARQUIST SPARKMAN, LLP 121 SW SALMON STREET SUITE 1600 PORTLAND, OR 97204			CHANKONG, DOHM	
			ART UNIT	PAPER NUMBER
			2152	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/892,350

Applicant(s)

EWING ET AL.

Examiner

Dohm Chankong

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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Art Unit: 2152

DETAILED ACTION

1> This action is in response to Applicant's amendment and remarks. Claims 1-13 are presented for examination.

2> This is a final rejection.

Response to Arguments

3> Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection necessitated by Applicant's amendment.

4> Applicant has asserted that claims 1, 10 and 13 are distinguished over the prior art reference (Karanam) in part because Karanam does not disclose "distributing power from a power network". Karanam is directed towards a power management server that controls the various power aspects of a connected network devices [column 4 «lines 26-28»].

It should be noted that the limitation of "provid(ing) power" and "distributing power" is placed in the preamble of the claims. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). The limitation of the system for "distributing power" seems generally directed towards the field of use of the invention and the body of the claim seems to disclose

Art Unit: 2152

a method for controlling the power of devices and does not specifically rely on the manager system's ability to distribute power. That is, there is nothing in the body of the claims that mandates that the provision or distribution of power; the functionality of terms within the claim such as "interrupt" and "affecting" are suggested by Karanam. Karanam distinctly discloses the functionality disclosed in the body of the claim: "computer contains software for monitoring and controlling selected aspects of power usage/consumption" [column 4 «lines 26-28»].

Additionally, the limitations of claims 1 and 10 state that the system "may provide power". The use of the term "may" is ambiguous; it has been held that a recitation that an element is capable of performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. See *In re Hutchison*, 69 USPQ 138.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1> Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. As stated in the response to arguments, the limitation "may provide power" is ambiguous and does not constitute a limitation in any patentable sense.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5> As to claim 13, Karanam discloses a remote power manager system of the type for (i) controllably distributing power from a power network to associated electronic devices while (ii) simultaneously being in communication with a distal power manager application through a separate data communications network [column 4 «lines 6-28»], the remote power manager system comprising in combination:

a remote power manager having a power input connectable to the power network, a plurality of power-control power output ports connectable to the associated electronic devices [column 4 «lines 6-13»], a power controller in controlling communication with the plurality of power-control power output ports [column 5 «lines 27-39»], a data communications network port system in communication with the power controller and being connectable to said data communications network [column 4 «lines 20-67»], and a power manager memory providing storage for a user configuration file [column 8 «lines 11-23»]; and

a user configuration file transfer application providing for selectably importing a user configuration file from said distal power manager application through said data

Art Unit: 2152

communications port system to said power manager memory, or exporting said user configuration file from said power manager memory through said data communications network port system to said distal power manager application over said data communications network [Figure 5 | column 5 «lines 1-39» | claims 19 and 20].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6> Claims 1-12 are rejected under 35 U.S.C § 103(a) as being unpatentable over Potega, in view of Karanam.

7> As to claim 1, Potega discloses a reconfigurable network-equipment power-management system of the type that may provide power to one or more electronic appliances, comprising:

a power-controller apparatus having a power input and a serial interface for communicating with a remote user system [column 30 «line 49» to column 31 «line 45» where : Potega's power supply corresponds to a power controller apparatus and the remote MCU corresponds to a remote user system];

a plurality of power-control ports connectable to one or more electronic appliances, wherein the plurality of power-control ports are able to interrupt operating power to the one or more electronic appliances [column 40 «lines 16-39» | column 42 «lines 4-31»]; and

a memory disposed in the power-controller apparatus and providing for storage of the user configuration [column 63 «lines 39-46»].

Potega suggests transferring configuration information from a remote location and for affecting the plurality of power-control ports [column 31 «lines 5-8»] as well as a file transfer mechanism accessible by the remote user system [column 30 «line 63» to column 31 «line 8»] but does not explicitly disclose a user configuration file accessible by the remote user system for affecting the plurality of power-control ports and a file transfer mechanism that is for importing and exporting the user configuration file from the power-controller apparatus to the remote user system via the serial interface.

8> Karanam discloses a user configuration file accessible by the remote user system for affecting the plurality of power-control ports and a file transfer mechanism accessible by the remote user system for importing and exporting the user configuration file from the power-controller apparatus to the remote user system via the serial interface [column 4 «lines 20-28» | column 5 «lines 1-41» | column 7 «lines 2-11» | column 8 «lines 11-23» | column 17 «lines 33-49»]. It would have been obvious to one of ordinary skill in the art to modify Potega's power management system to include user configurable information as well as the ability to export and import said information. One would have been motivated to provide such an implementation in Potega to enable user control over the power supply device and to enhance

Art Unit: 2152

the communication between the connected devices in the power network (a functionality suggested by Potega [column 31 «lines 9-45»]).

9> As to claim 2, Potega discloses the system of claim 1, further comprising:
a computer data network interfaced to support the file transfer mechanism and communication with a remote user system [column 30 «line 63» to column 31 «line 15»].

10> As to claim 3, Potega discloses transferring command (configuration information) [column 31 «lines 5-8» | column 63 «lines 39-46»] but does not explicitly disclose a command mechanism for recognizing a user command to upload the user configuration file from the memory to a destination.

11> Karanam discloses the system of claim 1, further comprising:
a command mechanism for recognizing a user command to upload the user configuration file from the memory to a destination [Figure 20 | column 4 «lines 26-28» | column 5 «lines 1-39» | column 14 «lines 32-61»]. It would have been obvious to one of ordinary skill in the art to modify Potega's transfer mechanism to include Karanam's command mechanism to enable a user of Potega's device with the ability to upload the information.

12> As to claim 4, Potega discloses transferring command (configuration information)

Art Unit: 2152

[column 31 «lines 5-8» | column 63 «lines 39-46»], but does not explicitly disclose a command mechanism for recognizing a user command to download a substitute user configuration file to the memory from a source.

13> Karanam discloses the system of claim 1 further comprising:

a command mechanism for recognizing a user command to download a substitute user configuration file to the memory from a source [Figure 20 | column 4 «lines 26-28» | column 5 «lines 1-39» | column 14 «lines 32-61»]. It would have been obvious to one of ordinary skill in the art to modify Potega's transfer mechanism to include Karanam's command mechanism to enable a user of Potega's device with the ability to download the information.

14> As to claim 5, Potega does not explicitly disclose a transfer mechanism for checking the integrity of a substitute user configuration file downloaded to the memory, and for rejecting a corrupted file transfer.

15> Karanam discloses the system of claim 1, further comprising:

a transfer mechanism for checking the integrity of a substitute user configuration file downloaded to the memory, and for rejecting a corrupted file transfer [column 14 «lines 60-61» where : Karanam implicitly suggests that the file is not accepted if the file does not have proper syntax]. It would have been obvious to one of the ordinary skill in the art to include

Karanam's file integrity checker to insure that configuration information and parameters that are transferred to Potega's power supply device are proper and valid.

16> As to claim 6, Potega does not explicitly disclose a transfer mechanism for checking the integrity of a substitute user configuration file downloaded to the memory, and for adopting for use an acceptable file transfer.

17> Karanam discloses the system of claim 1, further comprising:
a transfer mechanism for checking the integrity of a substitute user configuration file downloaded to the memory, and for adopting for use an acceptable file transfer [column 14 «lines 60-61»]. It would have been obvious to one of the ordinary skill in the art to include Karanam's file integrity checker to insure that configuration information and parameters that are transferred to Potega's power supply device are proper and valid.

18> As to claim 7, Potega does not explicitly disclose an editor for constructing a substitute user configuration file for downloading to the memory.

19> Karanam discloses the system of claim 1, further comprising:
an editor for constructing a substitute user configuration file for downloading to the memory [column 14 «lines 48-56» | column 17 «lines 40-49»]. It would have been obvious to one of ordinary skill in the art to modify Potega to include an editor for configuration

Art Unit: 2152

information to enable a user to edit and create the software updates that are suggested by Potega [column 63 «lines 35-38»].

20> As to claim 8, Potega discloses configuration information to control said plurality of power-control ports [column 31 «lines 5-8»] but does not explicitly disclose an editor for modifying said user configuration file into a substitute user configuration file for downloading to the memory.

21> Karanam discloses the system of claim 1, further comprising:

an editor for modifying said user configuration file into a substitute user configuration file for downloading to the memory [column 5 «lines 1-39» | column 8 «lines 11-23» | column 14 «lines 48-56» | column 17 «lines 40-49»]. It would have been obvious to one of ordinary skill in the art to modify Potega to include an editor for configuration information to enable a user to edit and create the software updates that are suggested by Potega [column 63 «lines 35-38»].

22> As to claim 9, it does not teach or further define over the limitations of claims 2-8. Therefore, claim 9 is rejected for the same reasons set forth in claims 2-8, supra.

23> As to claims 10-12, they do not teach or further define over the limitations of claims 1 and 5-8. Therefore, claims 10-12 are rejected for the same reasons set for claims 1 and 5-8.

Art Unit: 2152

24> As to claim 13, Potega discloses a remote power manager system of the type for (i) controllably distributing power from a power network to associated electronic devices [column 31 «lines 24-45»] while (ii) simultaneously being in communication with a distal power manager application through a separate data communications network [column 30 «line 63» to column 31 «line 11»], the remote power manager system comprising in combination:

a remote power manager having a power input connectable to the power network, a plurality of power-control power output ports connectable to the associated electronic devices [column 6 «lines 16-39»], a power controller in controlling communication with the plurality of power-control power output ports [column 31 «lines 31-45»], a data communications network port system in communication with the power controller and being connectable to said data communications network [claim 26], and a power manager memory providing storage for a user configuration file [column 63 «lines 39-46»].

Potega discloses a remotely controllable and updateable power supply device but does not explicitly disclose a user configuration file transfer application providing for selectably importing a user configuration file from said distal power manager application through said data communications port system to said power manager memory, or exporting said user configuration file from said power manager memory through said data communications network port system to said distal power manager application over said data communications network.

Art Unit: 2152

25> Karanam discloses a user configuration file transfer application providing for selectably importing a user configuration file from said distal power manager application through said data communications port system to said power manager memory, or exporting said user configuration file from said power manager memory through said data communications network port system to said distal power manager application over said data communications network [Figure 5 | column 5 «lines 1-39» | column 17 «lines 38-49» | claims 19 and 20]. It would have been obvious to one of ordinary skill in the art to have modified Potega with Karanam's user configuration file transfer application to selectably configure Potega's power supply device. One would have been motivated to provide such an implementation in Potega to enable the power supply to be updated and configured for new devices.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

Art Unit: 2152

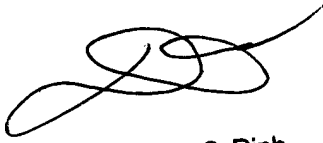
advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is (571)272-3942. The examiner can normally be reached on 8:30AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DC



Dung C. Dinh
Primary Examiner